



The Commonwealth of Massachusetts
Executive Office of Public Safety & Security

One Ashburton Place, Room 2133
Boston, Massachusetts 02108

Tel: (617) 727-7775

TTY Tel: (617) 727-6618

Fax: (617) 727-4764

www.mass.gov/eops

Deval L. Patrick
Governor

Mary Elizabeth Heffernan
Secretary

Timothy P. Murray
Lieutenant Governor

TO: MARY BETH HEFFERNAN, SECRETARY, EOPSS

FROM: JOHN A. GROSSMAN, UNDERSECRETARY, EOPSS
SANDRA MCCROOM, UNDERSECRETARY, EOPSS

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CINELLI

On December 26, 2010, parolee Dominic Cinelli fatally shot Woburn Police Officer John B. Maguire during an armed robbery of a Kohl's department store in Woburn. During the exchange of gunfire, Cinelli was fatally shot. Cinelli had a long record of armed robberies, armed assaults on police officers and others, as well as escapes. In 1986, he received a number of lengthy sentences for his crimes, including three concurrent life sentences. The Massachusetts General Laws provide that, except for first-degree murder convictions, a sentence of "life" carries with it the possibility of parole after the individual has served 15 years. The Parole Board initially determined, based on Cinelli's aggregate sentences, that he was not eligible for parole until 2008; however, a 2005 Appeals Court decision ordered that the Board schedule him for a hearing immediately. The Parole Board denied his first application for parole in 2005. In 2008, the Parole Board granted Cinelli parole and imposed certain conditions. A copy of the Board's 2005 and 2008 Records of Decision are attached hereto.

As a result of these events, you have instructed us to conduct a thorough review of the agency's processes and systems leading up to Cinelli's November 2008 parole hearing, as well as his supervision in the community upon his release from MCI Norfolk in March 2009.

As part of our examination of this matter, we have reviewed all of the materials related to Cinelli's parole and supervision and interviewed the following persons:

- All of the Board members who voted to grant Cinelli parole in 2008: Chairman Mark Conrad, Doris Dottridge, Candace Kochin, Pamela Lombardini, Thomas Merigan, and Leticia Munoz. Chairman Conrad also serves as the agency's chief executive officer.
- The Executive Director from 2003 through December 3, 2010.
- The Acting Executive Director.
- The Chief of Field Services, the Chief of Transitional Services, and the Chief of Victim Services.

We have also received written reports from the Acting Executive Director, the Chief of Field Services, and the Chief of Transitional Services and summaries of interviews with the parole officer last responsible for supervising Cinelli and that officer's supervisor; spoken to numerous other individuals involved in parole and law enforcement; reviewed the laws governing parole in the Commonwealth and consulted reports written under similar circumstances.

The following summarizes our findings, highlighting both what worked based on current policies, statutes and practices, as well as areas where we believe that the agency or agency personnel did not perform adequately. Our examination revealed several significant factors that contributed to the failures. Among those contributing factors was the inability, during this fiscal crisis, to fill key management positions.

Parole Board Background

- The Parole Board held face-to-face hearings on 8,828 applications for parole in 2009 and in 68% of those cases determined that parole would be appropriate.
- There were 5,463 new parole releases in 2009, each one resulting in a field card being created and delivered to the police department in the municipality where the new parolee resides. These notifications include the sentence structure, parolee home and work addresses, parole conditions, photo and biographical data.
- 7,901 parolees were supervised by the Parole Board during calendar year 2009.
 - As of today, there are 341 parolees who were sentenced to life. Of those so-called lifers, approximately 90% were serving one life sentence. The remainder were serving between 2 and 5.
 - The whereabouts of 2 of the 342 are fugitives and have been so since 1972 and 1995.
- 877 parolees --11% of the total supervised -- were arrested by parole officers and returned to custody in 2009. 642 (8% of the total supervised) were arrested for technical violations of the conditions of parole, and 231 (3% of the total supervised), as the result of new criminal charges.

Overall, in 2009, 78% of Massachusetts parolees successfully completed their parole. The national average, according to the US Department of Justice, was 51%.

Transitional Services

- The Transitional Services Unit is responsible for preparing the cases to be heard by the Parole Board. They compile the necessary data for Board Members and are responsible, among other duties, for notifying the appropriate parties of the hearing, as mandated by law.
- The summary of the facts provided to the Board does not adequately highlight the violence and seriousness of the Cinelli's crimes.

- Relevant law (G.L. c. 127, § 133A) requires that the District Attorney and police chief from each jurisdiction where the offender committed a crime relating to the parole, as well as the Attorney General, receive notification of the offender's hearing date. Victims are also entitled to notification (discussed below).
 - Notification of Cinelli's 2005 hearing was properly sent to the Middlesex and Suffolk County District Attorneys and to the police chiefs.
 - Notification of Cinelli's 2008 hearing was not sent to the Middlesex District Attorney's Office, nor to the relevant Middlesex County municipalities.
 - This failure appears to be the result of a lack of attention to detail in preparing a hearing calendar. The individuals responsible for preparing that calendar and their direct supervisor no longer work at Parole.
 - While notification of the 2008 hearing was sent to the Suffolk County District Attorney and the Boston Police Department, this notification was plainly inadequate as it cited the wrong underlying crime.
 - The preparation of the notification was automated, and the failure to cite the appropriate crime was a result of a software coding error.
 - There was no system in place to substantively review those automated notices.
 - Neither the Suffolk County nor Middlesex County District Attorneys' offices attended the 2008 hearing or submitted an opposition; both had opposed Cinelli's release in 2005.
- Transitional services properly obtained Cinelli's updated criminal record based on his name and date of birth.
- As part of the investigation of the December 26 crime, the State Police identified an additional criminal record belonging to Dominic Cinelli, using the name Salvatore Demarco. This record reveals a 1985 arrest for Breaking and Entering (night), Possession of Burglarious Tools, and Assault and Battery on a Police Officer. This record was not before the Parole Board in 2005 or 2008.
 - The Demarco record and the main Cinelli record were not merged as they were created before the Commonwealth began using an automated fingerprint system in or around 1986.

- The technology currently in place at the State Police Identification Section does not allow the State Police Identification Section to compare all fingerprints in the database to one another in order to eliminate such duplicates. State Police and EOPSS are in the process of procuring a new system that will automate such elimination.
- In 2008, the Parole Board did not use an evidence-based risk assessment tool as part of their evaluation of suitability for parole.
 - Beginning in 2009, the Board introduced the use of such a tool and now uses it in all paroles from state correctional facilities. It is in the process of implementing its use in all county facilities.
 - Had the current tool been in use in 2008 when Cinelli was paroled, he would have been categorized as presenting a high risk to recidivate, scoring a 9 on a 10 point scale.

Victim Services

- The Victim Services Unit assists victims in the process of obtaining CORI certification and enabling the victim and/or family members to receive information regarding an offender's status. The unit processes nearly 19,000 notifications annually.
- In the present case, the Victim Services Unit properly gave notice to notify the one CORI-certified victim.
- The long-standing practice of the Victim Services unit is to notify CORI-certified victims in all cases. In addition, in all cases involving life sentences, the General Laws require that a good-faith effort is made to all victims, whether or not they are CORI certified.
 - As a result of this review, the Acting Executive Director, Board Counsel, and the Director of Victim Services now agree, and we concur, that a good-faith effort should be made to notify victims of the parole hearings of all offenders serving life sentences, including those few who – like Cinelli – were not convicted for second-degree murder.

The 2008 Cinelli Hearing

- All Parole Board members who voted on the 2008 Cinelli release decision have been contacted individually. Each of them stated they felt that they had all of the materials – including police reports, grand jury minutes and prison disciplinary history --necessary to make an informed decision at the hearing.
 - Our review confirms that all available police reports and similar material was before the Board.
- While there are considerable procedural differences between the so-called “lifer hearings” – like Cinelli’s – and the 9,900 other hearings that the Parole Board hears each year for involving offenders who will, under any circumstances, be released from incarceration, neither the Parole Board’s governing legislation nor the Board’s own material make a substantive distinction between the two types of hearings or the balance that the Board must consider.
- The 2008 Record of Decision concludes that Cinelli’s release “is not incompatible with the welfare of society,” which is one-part of the statutory standard for parole, G.L. c. 127, §130. The Record of Decision does not make any explicit finding with regard to the other component of the standard: whether, in the Board’s opinion, there is “a reasonable probability that, if such prisoner is released, he will live and remain at liberty without violating the law.”

Field Services

- The Field Services Unit comprises eight regional parole offices and is responsible for monitoring and supervising all offenders who have been released on. Each regional office is led by a Supervising Parole Officer. Parole officers are responsible for assuring that parolees remain in compliance with the conditions of parole and with any special conditions imposed by the Parole Board. Field Services is led by the Chief of Field Services. The Chief has traditionally had several deputies, but these positions have all remained unfilled at least since 2008.

- All Parole Officers are required to make at least one face-to-face contact and one collateral contact per month with each parolee. Collateral contacts are designed to provide the parole officer with a way to assess the parolee's status (at home, in the community, at work, in programming, etc.) without relying on the parolee himself. In Cinelli's case:
 - From March 4, 2009, to September 16, 2009, these standards, as well as all other conditions of supervision, including substance abuse testing and program completion were met.
 - From September 16, 2009, to December 26, 2009, the Parole Board's current standards for face-to-face contacts, as well as the special conditions of supervision (e.g., drug testing), were met. Furthermore, during some months, the parole officer went beyond the standards in her efforts to supervise Cinelli.
 - In the 16 months from September 16, 2009, to December 26, 2009, 14 collateral contacts were made. While this appears to be only marginally below standards, the numbers are deceptive in that during several months there were multiple collateral contacts, while in 8 of the 16 months there were no documented collateral contacts.
 - Specifically, collateral contacts did not occur in November 2009, December 2009, January 2010, July 2010, August 2010, September 2010, October 2010, and November 2010.
 - Cinelli's parole officer made a collateral contact on December 14, 2010, to Cinelli's girlfriend.
 - The parole supervisor responsible for providing oversight to the Cinelli case reviewed the Cinelli file in April 2010 and October 2010.
 - On neither occasion did he make any notation regarding the failure to make collateral contacts.
 - During the April review, the supervisor noted that the officer's notes "seem to say you take subjects word for adherence to conditions as opposed to paystub or AA slip." The officer replied: "AA cards in file."

- The Chief of Field Services indicated that he believed that on the whole, even though the officer supervising Cinelli did not make the required collateral contacts for five months in a row, Cinelli's supervision was "adequate." In his interview, he described the officer as under-reporting in the case management system, but still believed that overall the supervision of Cinelli was "adequate."
- There were a number of actions taken by parole officers in the Cinelli case that were only recorded in the officer's own informal notes and not in the Parole Board's case management system. This is a recognized issue of longstanding at the Parole Board.
 - We do not concur with the Chief of Field Services's assessment of the supervision that Cinelli received.

Supervisory Oversight

- The Chairman and Executive Director indicated that they would not have found Cinelli's supervision "adequate." They generally could not explain the management lapses described above.